

FROM Central Intelligence Agency Washington, D. C. 20505		NO. Q356136
TO: Mr. William V. Skidmore 7220 New Executive Office Bldg		DATE 12 June 1972
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CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

OLC 74-1076/a

12 JUN 1974

Mr. Wilfred H. Rommel  
Assistant Director for Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

Attention: Mr. William V. Skidmore

Dear Mr. Skidmore:

This confirms conversations between Mr. Frank Reeder of your staff and Mr. Carpentier of my office concerning the Agency's position on the latest draft bill as an alternative to H. R. 42006, as requested in your memorandum dated May 20, 1974. 12206

Mr. Reeder confirmed that section (c) of the proposed legislation will totally exempt the Central Intelligence Agency. Further, in view of this exemption, it was agreed that there was no need to supply information concerning the Agency's record systems.

Thank you for giving us the opportunity to comment on this legislation.

Sincerely,

SIGNED

George L. Cary  
Legislative Counsel

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

May 20, 1974

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer  
(See attached list)

Subject: Draft alternative language to H.R. 12206

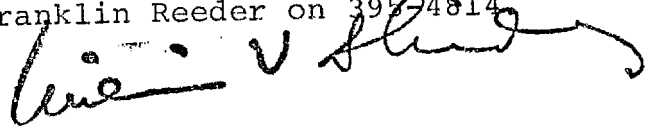
The attached draft bill reflects the comments of various agencies and the staff of the Domestic Council Committee on the Right of Privacy.

As a result of the many constructive suggestions received, this draft differs to some degree from earlier versions which have been circulated. We would appreciate your agency's views to help us perfect this language. The resultant draft bill will be transmitted to the House Subcommittee on Foreign Operations and Government Information as an Administration alternative for use by the Subcommittee in its mark up of H.R. 12206 and related bills.

Your response should include:

- Your views and comments. Where changes are proposed, specific amendatory language is needed. To the extent that any additional exemptions are proposed, a detailed statement of the adverse implications of subjecting such records to the provisions of this bill should be provided.
- A listing of the systems of records maintained by your agency which contain individually identifiable personal data including for each, the title, brief purpose, the number and types of individuals covered (e.g., patients in PHS hospitals, all wage earners, etc.) and whether or not, in your opinion, the system would be subject to the provisions of this bill, and
- Estimates of the cost to implement each of the provisions of the bill.

We need your comments by no later than c.o.b. May 28, 1974.  
If you have any questions please call William V. Skidmore  
on 395-4870 (ISD 103) or Franklin Reeder on 395-4814.



William V. Skidmore for  
Assistant Director for  
Legislative Reference

Enclosures

cc:  
Mr. Buchen  
Mr. Ebner  
Dr. Marik  
Mr. Eberle  
Mr. Haase  
Mr. Reeder  
Mr. Skidmore  
Mr. Rommel

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Approved For Release 2002/01/02 : CIA-RDP76M00527R000700140089-2

A BILL

To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Federal agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
That (a) title 5, United States Code, is amended by adding at the end of section 551 thereof the following paragraphs:

"(14) "Administrative records" means records containing individually identifiable data which may be used to make determinations to affect an individual;

"(15) "Records" means a collection or grouping of data preserved for future reference or use;

"(16) "System of records" means any organized file or grouping of records maintained by an agency whether or not stored in a computer; and

"(17) "Statistical reporting or research purposes" means uses of records for aggregate analytic or evaluative ends and specifically excludes any uses of individual data for the purposes of making any determination intended to affect an individual except as provided in 13 U.S.C. 8."

(b) Title 5, United States Code, is amended by adding immediately after section 552 thereof the following new section:  
"552a Records about individuals.

"(a) Each agency that maintains a system of records about identifiable individuals from which information could be

retrieved by reference to or by indexing under such individual's name, or some identifying number or symbol, shall with respect to such systems of records--

"(1) publish, at least annually in the Federal Register, a notice of the existence and character of all such systems of records. The notices shall include but need not be limited to:

"(A) the name of the system;

"(B) the nature and purposes of the system;

"(C) the categories and numbers of individuals on whom records are maintained;

"(D) the categories of information maintained;

"(E) the policies and practices of the agency regarding storage, retention, and disposal of such records;

"(F) a description of the purposes for which all or any part of the information contained in such records may be used or disclosed including the categories of users for each such purpose;

"(G) the title and address of the individual immediately responsible for the system; and

✓ "(H) for those systems of records not exempted in subsection b, below, rules establishing reasonable times, places, fees to the extent authorized, identification requirements and other procedures with respect to making specifically designated records promptly available to the individual to whom they pertain, including any special

provisions governing access to medical records in cases where the agency determines that their disclosure could be injurious to such individual, and otherwise to implement the provisions of this section;

"(2) maintain procedures for collecting information about individuals by which individuals are informed of the purposes for which the information about themselves furnished by them will be used or disclosed consistent with the purposes in the public notice published pursuant to subsection (a)(1)(F), above, and the effects, if any, of not providing all or any of the requested information;

"(3) refrain from disclosing any records, or any information contained therein, to any other agency or to any person not employed by the agency maintaining the record, except--

"(A) pursuant to a request by or with the consent of the individual to whom the information in the record pertains, or

"(B) for a use that is expressly required by law, or

"(C) for a use clearly within the stated purposes of the system as described in the general notice about the system published in accordance with subsection (a)(1), above, provided that such purpose shall have been contained in a notice published at least ninety days prior to such use, or



"(D) for a use consistent with the purposes described to the individual pursuant to subsection (2), or

"(E) upon good cause for such disclosure and when not otherwise prohibited by law, with notification of the individual to whom the record pertains at his last known address, or

"(F) when otherwise permitted by law and disclosed to another agency and the head of such agency states in writing the particular information desired, the law enforcement purpose in connection with which the information is sought and the official need therefor, or

"(G) where the agency determines that the recipient has provided adequate assurance that such records, or any information contained therein, will be used only for statistical reporting or research purposes;

"(4) maintain an accurate record of the date, nature of disclosure and the name and address of any person or agency outside the agency maintaining the record to whom any information contained in such records is disclosed, the purpose for which such disclosure was made, and the basis for such disclosure under subsection (a)(3) above;

"(5) establish and maintain procedures to ensure that there will be no disclosure of any record or any

information contained therein within the agency other than to individuals who have a need to know in the performance of their duties for the agency;

"(6) maintain information in any record with such accuracy, completeness, timeliness, and pertinence as is necessary to permit accurate and fair determinations relating to the individual to whom such record pertains which may be made by the agency on the basis of such information;

"(7) permit an individual to inspect any information pertaining to him specifically requested by him and to have copies made of all or any portion thereof at his expense, which in no event shall be greater than the cost to the agency of making such copies;

"(8) permit an individual to supplement the information contained in any record pertaining to him by the addition of any information of reasonable length which such individual and the agency agree is pertinent to his record;

"(9) correct or remove erroneous or irrelevant information about an individual in any record and notify all agencies and persons to whom such erroneous or irrelevant information had been disclosed within the preceding two years of its correction or removal;

"(10) establish rules and procedures for reviewing and making determination on disputes as to the accuracy, pertinence or completeness of records and otherwise to implement to provisions of this section.

"(11) inform the individual to whom the record pertains if it has determined not to correct or augment his record in conformance with his request, the reason therefor and of the procedures established by the agency for appealing that determination; and

"(12) permit the individual to whom the record pertains to file a statement setting forth the nature of the dispute, and in any subsequent report containing the information in questions, clearly note that it is disputed by the individual, and provide copies of such statements upon request of persons to whom the disputed information has been disclosed, if the head of the agency or his designee and the individual to whom the record pertains cannot agree as to the accuracy, pertinence or completeness of the record.

(C?) — "(b) The provisions of subsections (a) (1) (H) and (a) (2) through (12) of this section shall not apply to systems of records or information contained therein;

"(1) to the extent that the head of that agency determines that the release of the information in such systems would seriously damage national defense or foreign policy;

"(2) the disclosure of which is otherwise prohibited by law or required by statute to be kept confidential;

"(3) maintained by the Central Intelligence Agency;

"(4) maintained in connection with providing protective services to the President and others:

"(5) that are investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

"(6) that are investigatory files compiled for the purpose of determining initial or continuing eligibility or qualification for Federal employment, military service or access to classified information; or

"(7) authorized by law to be collected, maintained, and used only for statistical reporting or research purposes or information derived from administrative records but maintained apart therefrom and used only for statistical reporting or research purposes or for purposes of 13 U.S.C. 8 whether located in the Federal Government departments and agencies, or the intergovernmental cooperative agency with which they have legal arrangements to furnish statistical services.

Q<sup>2</sup>) "(c) The provisions of subsections (a), (1) through (12) shall not apply to any system of records maintained by a Federal agency to the extent that the head of such agency determines that the disclosure of the existence of such system of records ~~on the disclosure of which is otherwise prohibited by law or~~ ~~required by statute to be kept confidential~~ would seriously damage national defense or foreign policy.

(U) "(d) The President shall report to Congress before June 30th of each year on an agency-by-agency basis the number of

records and the number of files which were exempted from the application of this section by reason of the provisions of subsections (b) or (c) during the immediately preceding calendar year.

(d) "(e) Any person who knowingly and willfully violates the provisions of this section, or permits such a violation, shall upon conviction of subject to a fine of not more than \$1,000."

(c) The table of sections of Chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552 Public information; agency rules; opinions, order, records and proceedings."

SEC.2. The amendments made by the Act shall become effective on the one hundred eightieth day following the date of enactment of this Act.